HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25457 of 1998

Dated:18.07.2007

Between:

M.Ramdas.

…Petitioner.

and

The Secretary to Government, and others.

…Respondents.

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25457 of 1998

ORDER:

The petitioner is the owner of premises, bearing Door No.40/301-1 situated at Bellary Road, Kurnool Town. The respondents have undertaken widening of the road. It is stated that though no building constructed by the petitioner was demolished, a substantial area of his land, abutting the road, was utilized for widening and no compensation was paid therefor. Reference is made to the correspondence that ensued between the petitioner and the respondents. It is complained that, in spite of repeated demands, the respondents did not comply with the request of the petitioner. In this Writ Petition, it is prayed that compensation be awarded @ Rs.3,500/-, per square yard, with interest, as per the provisions of the Land Acquisition Act, 1894 (for short 'the Act').

The respondents filed a counter-affidavit, disputing the entitlement of the petitioner for compensation. It is stated that the petitioner did not come forward with any title deeds, or the permission accorded by the local authority for constructing the building.

Heard learned counsel for the petitioner and learned Standing Counsel for the Corporation.

The fact that the open area of the petitioner, abutting the road, was utilized in widening of the road, is evident from the correspondence that had ensued from the Revenue Committee, constituted for this purpose. As early as on 20.06.1986, the properties that are affected in the road widening, were enlisted and one such notice was issued to the petitioner also. The allegation of the petitioner that a substantial portion of the front yard was affected in the road widening, was not disputed. On the earlier dates of hearing, this Court directed the respondents to ascertain the exact area that was affected in the road widening. It is stated that an extent of 128 square yards of land, belonging to the petitioner, was utilized for that purpose.

Strictly speaking, the respondents are under obligation to initiate proceedings under the Act, or obtain consent of the petitioner before his land was taken over. It is no doubt true that negotiations were undertaken with the petitioner as well as other persons, whose properties were affected. While some of the affected parties have availed the benefit of relaxation of the building byelaws, for making constructions on the left over portion, the petitioner pursued his remedy for claiming compensation.

On instructions, learned Standing Counsel submits that the compensation payable for the affected party was fixed, at the relevant point of time, at Rs.150/-, per square yard. Inasmuch as the petitioner did not insist on initiation of proceedings under the Act, at the relevant point of time, and more than two decades have elapsed and judicial notice of the escalation, that is in the meanwhile, is taken, this Court is of the view that ends of justice would be met, if a sum of Rs.300/-, per square yard, is awarded, as compensation.

The Writ Petition is disposed of, directing that the 4th respondent, which has since been upgraded as Municipal Corporation, shall pay a sum of Rs.38,400/-, as compensation, for the land of the petitioner, within a period of two months from today. The petitioner is given an option to avail the benefit of relaxation, in lieu of compensation; either way, the matter shall be closed within two months from today. There shall be no order as to costs.

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Dt.18.07.2007 **L.NARASIMHA REDDY, J**

GJ